



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

J.B. VAN HOLLEN  
ATTORNEY GENERAL

Kevin M. St. John  
Deputy Attorney General

Steven P. Means  
Executive Assistant

17 W. Main Street  
P.O. Box 7857  
Madison, WI 53707-7857  
www.doj.state.wi.us

Donald V. Latorraca  
Assistant Attorney General  
latorracadv@doj.state.wi.us  
608/267-2797  
FAX 608/267-2778

February 22, 2011

Ms. Terri Jo Tews  
Waupaca County Clerk of Courts  
811 Harding Street  
Waupaca, WI 54981-2012

Re: *Benjamin Barrington: Summons and Complaint*

Dear Ms. Tews:

Enclosed is the Summons and Complaint in this matter. Based upon previous communications with your office and Judge Kirk's chambers, the matter is scheduled for an initial appearance and other proceedings on March 9, 2011, at 11:30 a.m. Attorney Thomas Johnson has agreed to accept service of the Summons and Complaint in this matter on behalf of Mr. Barrington. By this letter, the state is providing a copy of the Summons and Complaint to Mr. Johnson.

Please do not hesitate to contact me should you have any other questions regarding this matter.

Sincerely,

Donald V. Latorraca  
Assistant Attorney General

DVL:kw  
Enclosure  
c: Attorney Thomas Johnson

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_\_

WAUPACA COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 11-CM-\_\_\_\_\_

BENJAMIN BARRINGTON

d/o/b: 6/1/1974,

Defendant.

---

**SUMMONS**

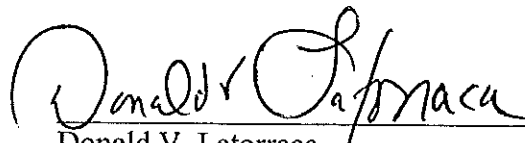
---

**THE STATE OF WISCONSIN TO SAID DEFENDANT:**

The Complaint, a copy of which is attached, having been made before me accusing the defendant, Benjamin Barrington, as a party to a crime, possession of hydrocodone, a prescription drug and a Schedule III controlled substance, commonly sold under the brand name Vicodin, in violation of Wis. Stat. § 450.11, contrary to Wis. Stat. §§ 450.11(7)(h), 450.11(9)(a), and 939.05(2)(c); and possession of cocaine, a Schedule II controlled substance, contrary to Wis. Stat. §§ 961.41(3g)(c) and 961.16(2)(b)1.

You, Benjamin Barrington, are, therefore, summoned to appear before the Honorable Philip M. Kirk, Circuit Court Judge for the Waupaca County Circuit Court, Branch 1, Waupaca County Courthouse, 811 Harding Street, Waupaca, Wisconsin, to answer said complaint on March 9, 2011, at 11:30 a.m.. In case of your failure to appear, a warrant for your arrest will be issued.

Dated this 22nd day of February, 2011.



Donald V. Latorraca  
State Bar No. 1011251  
Assistant Attorney General and  
Special Prosecutor for Waupaca County

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_\_

WAUPACA COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 10-CM-\_\_\_\_\_

BENJAMIN BARRINGTON  
d/o/b: 6/1/1974,

Defendant.

---

**CRIMINAL COMPLAINT**

---

Complainant, being duly sworn on oath, states that the above-named defendant did:

**COUNT 1: Possession of a Prescription Drug-Hydrocodone (Vicodin) (PTAC)**

During late April-early May 2009, in Waupaca County, state of Wisconsin, the above-named defendant did, as a party to a crime, possess hydrocodone, a prescription drug and a Schedule III controlled substance, commonly sold under the brand name Vicodin, in violation of Wis. Stat. §450.11, contrary to Wis. Stat. §§ 450.11(7)(h), 450.11(9)(a), and 939.05(2)(c).

Upon conviction of this offense, a misdemeanor, the maximum possible penalty is a fine of not more than \$500 or imprisonment for not more than six months or both.

**COUNT 2: Possession of a Controlled Substance-Cocaine**

From January 1, 2008, to August 2009, in Waupaca County, state of Wisconsin, the above-named defendant did possess cocaine, a Schedule II controlled substance, contrary to Wis. Stat. §§ 961.41(3g)(c) and 961.16(2)(b)1.

Upon conviction of this offense, a misdemeanor, the maximum possible penalty is a fine of not more than \$5,000, and imprisonment for not more than one year in the county jail, or both.

### **STATEMENT OF PROBABLE CAUSE**

1. I am a special agent employed by the Wisconsin Department of Justice, Division of Criminal Investigation (DCI). I have been employed as a law enforcement officer for the past 19 years. As part of my responsibilities, I participate in the investigation of cases involving the delivery and possession of controlled substances. I am familiar with the manner in which controlled substances such as street drugs like cocaine are bought and distributed in Wisconsin. In addition, I am also familiar with the manner in which otherwise legitimate controlled substances have medically acceptable uses are diverted and distributed for illicit purposes. Through my training and experience, I am familiar with the manner in which transactions are typically consummated to facilitate the distribution of various controlled substances.

2. I know from my training and experience that cocaine is a Schedule II controlled substance regulated under Wis. Stat. § 961.16(2)(b)1. I also know from my training and experience that Vicodin is a brand name prescription medication that includes the controlled substance hydrocodone. When sold as Vicodin, hydrocodone is both a prescription drug regulated under Chapter 450 and a Schedule III controlled substance regulated under Wis. Stat. § 961.18(5). A valid prescription is required to possess and use this substance.

3. For purposes of this complaint, I believe that all events described herein occurred within Waupaca County, Wisconsin. I further know that during the relevant time periods of this investigation, including the dates for which the offenses occurred, that the above-named defendant was employed as a sheriff's deputy for the Waupaca County Sheriff's Department. Further, according to records maintained by the Waupaca County Sheriff's Department, the

defendant reported that he resided at 307 South Harlan Street, City of Weyauwega, Waupaca County, Wisconsin.

4. I base this complaint in part upon the statement of Dustin Hildebrand. Hildebrand stated that he knew the defendant for the past several years. Hildebrand states that he met the defendant at Jack's Corner Bar in Weyauwega, Wisconsin, in the summer of 2008. Hildebrand stated that after socializing with the defendant for approximately two months, he began to use cocaine with the defendant and sell cocaine to the defendant. He would typically sell cocaine in "teeners" quantities. (I know from my training and experience that a teener is a one-sixteenth ounce of cocaine). Hildebrand stated that the defendant paid anywhere from \$80 to \$100 for cocaine. Hildebrand stated that his relationship with the defendant included drinking together, fishing together, and using cocaine on occasion with each other. Hildebrand stated that when the defendant wished to purchase cocaine, the defendant would often text message him. The text messages themselves would use guarded language. If Hildebrand had cocaine to sell to the defendant, Hildebrand would reply. Hildebrand reports that he sold cocaine to the defendant between ten and twenty times during the year. Sometimes he sold cocaine to the defendant between one and two times a week and during other periods, the defendant would not purchase cocaine at all. In addition, Hildebrand indicated that he used cocaine with the defendant between fifteen and twenty times. Hildebrand specifically remembered that the defendant did purchase cocaine on a more frequent basis during the annual walleye run weekends. I know from residing in the Fox Valley that the walleye run weekends occur during Spring (April-early May) each year when the walleye are running the Wolf River which flows in part through Waupaca County.

5. Hildebrand also informed me that on two separate occasions, the defendant provided him with Vicodin pills. On one occasion he received two Vicodin pills from the

defendant during the Spring 2009 walleye run. The defendant gave him the pills for free. Hildebrand believes that the defendant obtained the Vicodin pills from a neighbor. Hildebrand also stated that on a second occasion during the spring 2009 walleye run, the defendant again provided Hildebrand with Vicodin on the second occasion. Hildebrand believes that the defendant obtained the Vicodin from the defendant's girlfriend. Hildebrand stated that in a three-month period prior to the defendant's termination in November 2009 from the Waupaca County Sheriff's Department, the defendant and Hildebrand stopped having contact with one another.

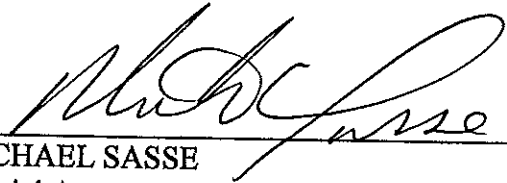
6. I have had an opportunity to review text messages that were obtained pursuant to a search warrant issued by the federal district court in the Eastern District of Wisconsin for cell phone records including text messages of the defendant and Hildebrand. One text message indicated that in August 2009, Hildebrand sent a text message to the defendant asking for "three vikes." I know from my training and experience that "vikes" is a street term for hydrocodone sold under the brand name of Vicodin. Hildebrand also told the defendant that he could get rid of more of them if the defendant still has them. The defendant replied to Hildebrand that he [the defendant] was out and that the defendant no longer does "that." In another text message that occurred in July 2009, I believe that Hildebrand was attempting to obtain money from a person whom I believed to be the defendant.

7. On October 21, 2009, I interviewed the defendant. Initially, the defendant denied possession of cocaine or providing Vicodin. He also acknowledged disassociating himself from Hildebrand but did acknowledge communicating with Hildebrand via cell phone and text messaging. During the course of the interview, I confronted the defendant regarding text message communications between the defendant and Hildebrand. Specifically, I informed him


that investigators had recovered a text message in which Hildebrand informed the defendant that he would have a "ball" in hand. I know from my training and experience that the term "ball" is a term used to refer to a one-eighth ounce quantity of cocaine. As part of this text message exchange, it appeared that the defendant also owed Hildebrand money. The defendant subsequently admitted that he had used cocaine. However, he claimed that he stopped using for approximately the past six months. The defendant also acknowledged that Hildebrand did provide him with cocaine. Hildebrand indicated that things got "a little out of hand" during the spring walleye weekend where they fished all night. The defendant indicated they used mainly coke during this period but that the defendant would also pop Vicodin as a way to pull him out of "feeling like shit" the next day. Previously in an interview, the defendant indicated that he did not have any kind of prescription medication. The defendant indicated that he would provide Hildebrand with \$100 for a "t" which is a one-sixteenth of an ounce quantity of cocaine. Hildebrand would ask the defendant for the money up front. The defendant indicated that Hildebrand did not have a set schedule but that Hildebrand would tell the defendant when Hildebrand would obtain cocaine and asked the defendant whether the defendant wanted "in." The defendant admitted spending a lot of money purchasing cocaine from Hildebrand. The defendant also admitted that "I probably gave him a couple of Vicodin" and "maybe he had given me some." The conversation the defendant was referring to was transactions involving Vicodin between himself and Hildebrand. The defendant stated that the total number of pills he provided to Hildebrand did not exceed five pills. The defendant admitted having some financial problems but indicated it was not the sole reason for his financial difficulties. The defendant indicated that there were some weeks where he would purchase as much as two "teeners" for \$100 a piece.

8. In July 2008, the defendant stated that his girlfriend discovered cocaine during a camping trip. After that time, he stated that he cut back his usage of cocaine. However, he did state that cocaine use was a regular occurrence for the two years prior to July 2008. The defendant stated that he would sometime use cocaine twice per week but then would go two to three months without cocaine. He indicated that his cocaine usage would get out of hand during walleye season which was between the months of April and May. The defendant indicated that he had been purchasing cocaine for approximately two to three years in \$100 increments. He stated he first started purchasing cocaine when Sheriff Hardel was the sheriff in Waupaca County. The defendant also denied using marijuana.

Dated this 11<sup>th</sup> day of February, 2011.

  
MICHAEL SASSE  
Special Agent  
Wisconsin Department of Justice, Division of  
Criminal Investigation

Subscribed and sworn to pursuant to  
Wis. Stat. §968.01(3) and approved for  
filing this 11<sup>th</sup> day of February, 2011.

  
DONALD V. LATORRACA  
Assistant Attorney General and  
Special Prosecutor for Waupaca County  
State Bar No. 1011251

Wisconsin Department of Justice  
Post Office Box 7857  
Madison, WI 53707-7857  
608-267-2797